



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket Number USCG-2021-0473]

RIN 1625-AA00

Safety Zone; Constitution Spar Outer Continental Shelf Facility, Green Canyon Block 680, Gulf of Mexico

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a safety zone on the navigable waters around the Constitution Spar, located in Green Canyon Block 680 on the Outer Continental Shelf (OCS) in the Gulf of Mexico. Establishing a safety zone around the facility will significantly reduce the threat of allisions, collisions, security breaches, oil spills, releases of natural gas, and thereby protect the safety of life, property, and the environment. Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2021-0473 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LCDR David Newcomb, District Eight OCS, U.S. Coast Guard; telephone 504-671-2106, David.T.Newcomb@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
<i>FR</i>	<i>Federal Register</i>
NPRM	Notice of proposed rulemaking
OCS	Outer Continental Shelf
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

Under the authority provided in 14 U.S.C. 544, 43 U.S.C. 1333, and Department of Homeland Security Delegation No. 0170.1, 33 CFR part 147 permits the establishment of safety zones for facilities located on the OCS for the purpose of protecting life and property on the facilities. The protections included in a safety zone established under 33 CFR part 147 are promoting safety of life and property on the facilities as well as their appurtenances and attending vessels and also for the adjacent waters located in and around each facility. Therefore, a safety zone under 33 CFR part 147 may also include provisions to restrict, prevent, or control certain activities, including access by vessels or persons to maintain safety of life, property and the environment. Anadarko Petroleum Corporation requested that the Coast Guard establish a safety zone around its facility located in the deepwater area of the Gulf of Mexico on the OCS. The Coast Guard determined that establishing a safety zone around this facility will significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

III. Discussion of Proposed Rule

The safety zone proposed by this rulemaking is on the OCS in the deepwater area of the Gulf of Mexico in Green Canyon 680 at the center point of N 27.2922, W 90.9680. The safety zone would be permanent. For the purpose of safety zones established under 33 CFR part 147, the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the vicinity of the safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways.

Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels as defined in 33 CFR 147.20, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone. The transit of other vessels into and through the safety zone area would be prohibited. Requests for entry into the zone will be considered and reviewed on a case-by-case basis. These proposed regulations are consistent with the existing safety zones of other OCS platforms in the Gulf of Mexico. Persons or vessels that require authorization to enter the safety zone must request it from the Commander, Eighth Coast Guard District. If permission is granted, all persons and vessels shall comply with the instructions of the Commander or designated representative.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

Aligning with 33 CFR 147.15, the safety zone established will extend to a maximum distance of 500 meters around the OCS facility measured from each point on its outer edge, but may not interfere with the use of recognized sea lanes essential to navigation. Vessel traffic would be able to safely transit around the proposed safety zone, which would impact a small designated area in the Gulf of Mexico, without significant impediment to their voyage. This safety zone would reduce the risk of allision with the platform and help protect the environment from potential oil spills, in accordance with Coast Guard maritime safety missions.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This rule may affect owners or operators of vessels intending to transit or anchor in Green Canyon 680, some of which might be small entities.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic could pass safely around

the safety zone using an alternate route. Use of an alternate route may cause minimal delay in reaching a final destination, depending on other traffic in the area and vessel speed. Vessels would be able to request deviation from this rule to transit through the safety zone. Such requests will be considered on a case-by-case basis and may be authorized by the Commander, Eighth Coast Guard District or a designated representative. Therefore, the Coast Guard expects any impact of this rulemaking establishing a safety zone around an OCS facilities to be minimal, with no significant economic impact on small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the

various levels of government. We have analyzed this proposed rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Further, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal Government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a safety zone around an OCS facility to protect life, property, and the marine environment. Normally such actions are

categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2021-0473 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule

as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 147 as follows:

PART 147-SAFETY ZONES

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 544; 43 U.S.C. 1333; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Add § **147.871** to read as follows:

§ 147.871 Safety Zone; Constitution Spar, Outer Continental Shelf Facility, Green Canyon 680, Gulf of Mexico.

(a) *Description.* The area within 500 meters of the Constitution Spar in the deepwater area of the Gulf of Mexico at Green Canyon 680 is a safety zone. The Constitution Spar is located at:

Latitude N 27.2922

Longitude W 90.9680

(b) *Regulation.* No vessel may enter or remain in this safety zone except for the following:

- (1) An attending vessel as defined in 147.20;
- (2) A vessel under 100 feet in length overall not engaged in towing; or
- (3) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

(c) *Requests for Permission.* Persons or vessels requiring authorization to enter the safety zone must request permission from the Commander, Eighth Coast Guard District or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Commander or designated representative.

Dated: October 18, 2022.

Richard Timme,
RADM, U.S. Coast Guard,
Commander, Coast Guard District Eight.

[FR Doc. 2022-23043 Filed: 10/21/2022 8:45 am; Publication Date: 10/24/2022]